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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,032	10/01/2004	Eric Berreklouw	2001-1352	4666
466 YOUNG & TH	7590 07/23/2007 OMPSON		EXAMINER	
745 SOUTH 23RD STREET 2ND FLOOR			GETTMAN, CHRISTINA DANIELLE	
ARLINGTON,	VA 22202	·	ART UNIT	PAPER NUMBER
			3734	
			MAIL DATE	DELIVERY MODE
			07/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Application No.			,		
Examiner Christian D. Gettman 3734		Application No.	Applicant(s)		
Christina D. Gettman  3734		10/510,032	BERREKLOUW, ERIC		
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.1390, in no event, however, may a seply be timely filled in the SX (5) MONTH'S from the mailing date of this communication. In septime 15 (4) MONTH'S from the mailing date of this communication. Failus to septimely the septimely fill the se	Office Action Summary	Examiner	Art Unit		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  ***and state (8) (MONTHS from the mailing date of this communication.  ***IND period to reply is specified above, the maximum statutory period will supply and will seeps (16) (MONTHS from the mailing date of this communication.  **Fallow to reply willin the set or extended period for reply will, by statute, cause the application to become ABANCONED (35 U.S.C.§ 133).  ***Provided to reply in specified above, the maximum statutory period will supply and will seeps (16) (MONTHS from the mailing date of this communication, even if through floor, may reduce any cannot patent term adjustment. See 37 GFR 1.704(b)).  ***Status**  ***10 Responsive to communication(s) filled on 01 October 2004.  **20 This action is FINAL. 20) This action is non-final.  **3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  **Disposition of Claims**  **4) Claim(s) \$9-84 is/are pending in the application.  **4) Claim(s) \$9-84 is/are pending in the application.  **4) Claim(s) \$9-84 is/are rejected.  **7) Claim(s) is/are allowed.  **Claim(s) \$9-84 is/are rejected to by the Examiner.  **10) The specification is objected to by the Examiner.  **10) The specification is objected to by the Examiner.  **10) The drawing(s) filed on 01 October 2004 is/are: a) accepted or b) objected to by the Examiner.  **Application Papers**  **9) The specification is objected to by the Examiner.  **10) The oath or declaration is objected to by the Examiner.  **10) The oath or declaration is objected to by the Examiner.  **10) The oath or declaration is objected to by the Examiner.  **10) The oath or declaration is objected to by the Examiner.  **10) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  **10) Acknowledgment		Christina D. Gettman	3734		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) OR THIRTY (30) DAYS. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time maybe available under the provision of 37 CFR 1.136(s). In no event, however, may a reply be timely filled  1 If NO period for reply is specified above, the maximum statutory period will apply and will expire 51£ (6) MONTHS from the mailing date of this communication.  1 If NO period for reply is specified above, the maximum statutory period will apply and will expire 51£ (6) MONTHS from the mailing date of this communication.  1 If NO period for reply is specified above, the maximum statutory period will apply and will expire 51£ (6) MONTHS from the mailing date of this communication, owen if is merely filled, may reduce any search period them application.  1 If NO period for reply is specified above, the maximum statutory point by advants.  2 If Period to reply is specified above, the maximum statutory point by the specified and the communication, owen if is merely filled, may reduce any search period to the communication.  2 If No period for reply is specified above, the maximum statutory point by the specified and the communication.  3 If No period for reply is specified above, the maximum statutory and the communication.  3 If No period for reply is specified and the communication is non-final.  3 If No period for specified and the communication is non-final.  3 If No claim(s) 59-24 is/are replected.  4 If No above claim(s) is is/are withdrawn from consideration.  4 If No above claim(s) is is/are withdrawn from consideration.  4 If No above claim(s) is is/are withdrawn from consideration.  5 If Claim(s) 59-28 is/are rejected.  5 If Claim(s) 59-28 is/are rejected.  5 If No above claim(s) is/are allowed.  6 If No above claim(s) is/are allowed	The MAILING DATE of this communication ap		n the correspondence address		
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application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **  **  **  **  **  **  **  **  **		•	·		
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	) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/	Mail Date		
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## **DETAILED ACTION**

## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 59-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams et al. (U.S. Patent No. 6,740,098) in view of Kubota et al. (U.S. Patent No. 5,154,723). Abrams et al. disclose the invention substantially as claimed including an assembly with a stabilizer (ref. 80, Fig. 2) and an instrument (ref. 20, Fig. 2), the instrument being inserted into a passage surrounded by tissue, the stabilizer having one or more suction nozzles (ref. 90, Fig. 2) running in the shape of a loop, the instrument having a head section (ref. 40, Fig. 2), the instrument and stabilizer each having a stop (ref. 435, ref. 455, and ref. 485, Fig. 22 acts as stops), the instrument being an applicator for applying a fixing device (ref. 420, Fig. 22), the stabilizer provided with a guide on which the instrument stop is provided, the guide extending transversely to the loop (guide moves laterally along the longitudinal axis), the stabilizer having a working duct with one or more suction nozzles (ref. 515, Fig. 22), the guide being at the proximal end of the working duct, one or more suction nozzles being in the axial, radially outward, radially inward, or obliquely outwards direction (it would be obvious to change the shape of the nozzles to get the desired effect) with respect to the loop shape, the suction nozzles adapted to be in the shape of the tissue, the fixing device having flange

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fingers (ref. 50, Fig. 2) there upon, and the applicator having an elongated support member and an obstructing member. Abrams et al. does not disclose there being a scale on the guide with a zero point. Kubota et al. discloses a guide on a stabilizer that is equipped with a scale (ref. 90b, Fig. 2) having a reference (or zero) point (ref. 86a, Fig. 2, is the reference line that can line up with the top zero point of the scale) for the purpose of designating the stop position of the instrument and stabilizer. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the guide of Abrams et al. with a scale having a zero point in order to aid the surgeon in identifying where the correct stop point location is for the instrument and stabilizer. It is well-known in the art to add sensors and markers to medical instruments in order to provide for an additional guide, or navigation means, to locate the instrument within the body. Therefore, it would have also been obvious to one having ordinary skill in the art to have modified Abrams et al. and Kubota et al. with a marker and sensor to easily navigate the instrument through the body to the correct location.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina D. Gettman whose telephone number is 571-272-3128. The examiner can normally be reached on Monday-Friday 7:15 am to 3:45 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christina Gettman Art Unit 3734

571-272-3128

MICHAEL J. HAYES SUPERVISORY PATENT EXAMINER